

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

ERIC FLORES,

Plaintiffs,

v.

UNITED STATES DEPARTMENT OF
HEALTH AND HUMAN SERVICES,
et al.,

Defendants.

NO: 2:14-CV-33-RMP

ORDER DISMISSING COMPLAINT
WITH PREJUDICE

Before the Court is pro se Plaintiff Eric Flores's 98-page Federal Tort Complaint Against Torture, ECF No. 6, and Motion to Transfer to Multidistrict Litigation, ECF No. 4. The Court has reviewed the filings and is fully informed.

BACKGROUND

Plaintiff, a Texas resident, seeks to initiate a class action lawsuit as the representative of a group of Mexican-Americans whom Plaintiff claims have been tortured by federal agents using satellites to calculate a genetic code that inflicts pain and injury on the alleged victims. ECF No. 6 at 1, 2, 11-12. Plaintiff has filed

1 similar actions in many other district courts, *see Flores v. U.S. Att’y Gen.*, 2013
 2 WL 1786392, at *2 n.1 (D.S.C. Mar. 25, 2013) (citing numerous cases), including
 3 within the Ninth Circuit, *see, e.g., Flores v. U.S. Atty. Gen.*, 2013 WL 4663053 (D.
 4 Hawaii Aug. 29, 2013).

5 Another district court recently summarized Plaintiff’s litigation history:

6 The United States Supreme Court, as a result of Flores’s abusive
 7 litigation tactics there, has restricted Flores’s ability to file civil
 8 matters in that court. *See Flores v. Holder*, 132 S.Ct. 2397 (2012)
 9 (denying leave to proceed in forma pauperis and dismissing petition
 10 for writ of certiorari), and federal district courts around the country
 11 have dismissed Flores’s complaints as frivolous. *See e.g., Flores v.*
U.S. Atty. Gen’l, NO. 2:13–cv0053–DBH, 2013 WL 1122719, [at] *2
 (D.Me. Feb. 26, 2013) (recommending that the court “join the long
 list of jurisdictions that have screened this or similar complaints filed
 by Flores and concluded that they contain ‘the hallucinations of a
 troubled man’” (citation omitted)), *report and recommendation*
adopted by 2013 WL 1122635 (D.Me. Mar. 18, 2013).

12 *Flores v. U.S. Att’y Gen.*, CV 13–00001 SM, 2013 WL 3190573, at *2 (D.N.H.
 13 June 20, 2013).

14 DISCUSSION

15 The Court liberally construes Plaintiff’s pleadings because Plaintiff is a pro
 16 se litigant. *See Eldridge v. Block*, 832 F.2d 1132, 1137 (9th Cir. 1987). However,
 17 because Plaintiff filed this action in forma pauperis, the Court will dismiss the case
 18 if it is “frivolous or malicious,” “fails to state a claim on which relief may be
 19 granted,” or “seeks monetary relief against a defendant who is immune from such
 20 relief.” 28 U.S.C. § 1915(e)(2)(B); *Lopez v. Smith*, 203 F.3d 1122, 1126-27 (9th

1 Cir. 2000) (en banc) (stating that 28 U.S.C. § 1915(e) “not only permits but
2 requires” the court to sua sponte dismiss an in forma pauperis complaint that fails
3 to state a claim).

4 A claim is legally frivolous when it lacks an arguable basis either in law or
5 in fact. *Neitzke v. Williams*, 490 U.S. 319, 325 (1989); *Franklin v. Murphy*, 745
6 F.2d 1221, 1227-28 (9th Cir. 1984). The Court may, therefore, dismiss a claim as
7 frivolous where it is based on an indisputably meritless legal theory or where the
8 factual contentions are clearly baseless. *Neitzke*, 490 U.S. at 327. The critical
9 inquiry is whether a constitutional claim, however inartfully pleaded, has an
10 arguable legal and factual basis. *See Jackson v. Arizona*, 885 F.2d 639, 640 (9th
11 Cir. 1989), *superseded by statute on other grounds as stated in Lopez*, 203 F.3d at
12 1130-31; *Franklin*, 745 F.2d at 1227. Unless it is absolutely clear that amendment
13 would be futile, a pro se litigant must be given the opportunity to amend his
14 complaint to correct any deficiencies. *Noll v. Carlson*, 809 F.2d 1446, 1448 (9th
15 Cir. 1987) *superseded by statute on other grounds as stated in Lopez*, 203 F.3d
16 1122.

17 After reviewing Plaintiff’s complaint, the Court finds that Plaintiff has failed
18 to establish that venue is proper in this Court. *See* 28 U.S.C § 1391(b)(2). In
19 addition, the Court finds that Plaintiff’s claims lack an arguable basis in fact or in
20 law and are therefore frivolous. The Court notes that Plaintiff’s allegations are

1 similar to those that have been dismissed by federal district courts around the
2 country. *See Flores*, 2013 WL 4663053, at *2.

3 Accordingly, **IT IS HEREBY ORDERED:**

4 1. Plaintiff's complaint, **ECF No. 6**, is **DISMISSED WITH**
5 **PREJUDICE.**

6 2. Plaintiff's Motion to Transfer to Multidistrict Litigation, **ECF No. 4**,
7 is **DENIED AS MOOT.**

8 **IT IS SO ORDERED.**

9 The District Court Clerk is directed to enter this Order, enter judgment
10 accordingly, provide copies to pro se Plaintiff, and **close** this case.

11 **DATED** this 11th day of February 2014.

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13
14 s/ Rosanna Malouf Peterson
15 ROSANNA MALOUF PETERSON
16 Chief United States District Court Judge
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